

REMARKS

Applicants wish to thank the Examiner for the many courtesies extended at the interview held on Tuesday, February 13, 2007.

Claims 1, 11, 12, 16-18 and 26-28 are currently pending.

Claim 12 has been amended to cite the full chemical name of EPA, DPA and DHA followed by the abbreviation in parenthesis. Support for this can be found in the specification on page 10 at lines 26-29. Thus, it is believed that no new matter has been added.

Claims 16-18 have been amended to recite that the seeds comprise the transgene as suggested on page 4 of the Office Action. Support for this can be found in the specification on page 12 at lines 25-26. Thus, it is believed that no new matter has been added.

Withdrawal of the rejection of claims 16-18 under 35 USC §101 is respectfully requested in view of the above amendment.

Claims 1, 11, 12, 16-18 and 26-28 remain rejected under 35 USC §112, first paragraph, on the ground that the specification "does not provide enablement for claims broadly drawn to any oilseed plant containing any transgene and producing oil exhibiting any fatty acid profile.

The instant invention is believed to constitute a pioneering type of invention. Prior to this, it was not known that an oilseed plant could be engineered to produce omega-3 long chain polyunsaturated fatty acids in the oil fraction of the seed. The research discussed in the instant application has paved the way for other researchers to use this foundation in engineering the production of omega-3 fatty acids in oilseed crops. This is evident from the numerous papers written in this area which cite Dr. Kinney's early research.

Submitted herewith is the declaration of Dr. Anthony Kinney, one of the co-inventors of the claimed invention. Attached to this declaration is a copy of a paper co-authored by Dr. Kinney and Dr. Howard G. Damude (another co-inventor of the claimed invention) and a paper authored by Napier et al.

Dr. Kinney's declaration, the papers attached thereto and the Roberts review (previously discussed) demonstrate that a variety of approaches using different genes and combinations thereof can be used to make transgenic plants producing long chain polyunsaturated fatty acids.

Attention is kindly invited to Table 1 on page 105 of the Roberts paper which summarizes a variety of genes, host plants and reported LC-PUFA proportions in seeds of these transgenic plants.

It is respectfully submitted in view of the foregoing that the specification is indeed enabling for any oilseed plant containing any transgene and any producing oil exhibiting the claimed fatty acid profile.

Accordingly, withdrawal of the rejection of claims 1, 11, 12, 16-18 and 26-28 under 35 USC §112, first paragraph, is respectfully requested.

Claims 1, 11, 12, 16-18 and 26-28 stand rejected under 35 USC§ 112, first paragraph, as failing to comply with the written description requirement.

It is believed that this ground of rejection has been obviated in view of the foregoing discussion, Declaration of Dr. Kinney and references attached thereto.

Accordingly, withdrawal of the rejection of claims 1, 11, 12, 16-18 and 26-28 under 35 USC §112, first paragraph, is respectfully requested.

It is respectfully submitted that the claims are in form for allowance which allowance is respectfully requested.

A Notice of Appeal accompanies this Response After final.

Please charge any fees or credit any overpayment of fees which are required in connection with the filing of this Response After Final to Deposit Account No. 04-1928 (E. I. du Pont de Nemours and Company).

Respectfully submitted,

/Lynne M. Christenbury/

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